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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,061	08/24/2005	Philippe Coszach	67219-001	7453
26/096 7590 05/01/2008 CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009				
EXAMINER TOSCANO, ALICIA				
ART UNIT		PAPER NUMBER		
1796				
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05/01/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,061

Applicant(s)

COSZACH ET AL.

Examiner

Alicia M. Toscano

Art Unit

1796

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-14,21-26,36,37 and 39-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-14,21-26,36,37 and 39-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 10, 26, 48-52 are objected to because of the following informalities:

Claims 1 and 3, to which the above depend from, require a meso-lactide content of less than 1% in step (d). The above claims have the limitation "and a meso-lactide content of between 0 and 15%". It is unclear to the Examiner how the m-lactide content can be above 1% when the claim 1 is limited to being less than 1%. Appropriate correction/clarification is required.

2. This rejection stands, Applicant's arguments are not persuasive. Applicant argues the two entities are different products, crude lactide and prepurified lactide and thusly the claims are not indefinite. The Examiner disagrees. It is unclear to the Examiner how one can start with a lactide composition comprising m-lactide in an amount of less than 1% (as in (d) of claim 1), purify this composition with the steps of (e) to result in a prepurified lactide with a m-lactide content of 0-15%. How is it possible to have 15% m-lactide impurity from a composition which starts with less than 1% m-lactide impurity? Appropriate clarification is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3, 5, 6, 9, 10, 21, 22, 25, 26, 44, 45, 48, 49 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi (US 5502215) in view of O'Brien (US 6310218).

This rejection is as set forth in the action dated 11/2/07.

Remarks:

Applicant argues the melt crystallization cited by the Examiner is not melt crystallization since it does not include cooling a molding lactide mixture to the freezing point of the lactide or slightly below. Rather Applicant argues the technique of Yamaguchi is quench-crystallization wherein the slurry formed from the crystallization of lactide is contacted with water. Applicant further argues that regardless of whether the first purification stage is considered as melt crystallization, and modified by the teachings of O'Brien, one skilled in the art would not arrive at the claimed invention because the documents teach away from further purifying the residual fractions of the crude lactide.

The Examiner disagrees. There is no requirement that melt crystallization requires one to cool the composition below the freezing point of the composition. The Examiner submits an internet definition of melt crystallization wherein a melt is cooled below its crystallization melting temperature to form crystals. The composition of Yamaguchi is cooled to 60C and crystals are formed. Thusly, Yamaguchi teaches the use of melt crystallization that meets the requirements of Applicant's claims, as previously set forth. That Yamaguchi further discloses the inclusion of water is moot

since melt crystallization occurs prior to the inclusion of water. Further, Applicant's claims require melt crystallization followed by water extraction, the same technique used by Yamaguchi. Regarding the teaching away from further purification, the Examiner disagrees. The method steps of Applicant's claims are met by Yamaguchi since after melt crystallizing controlled water extraction is performed. Thusly it is unclear to the Examiner what further processing Applicant is referring to since no rejection of such has been made. The rejection is thusly found proper and stands.

4. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi and O'Brien '218 in further view of O'Brien (US 5521278)

This rejection is as set forth in the action dated 11/2/07. Applicant argues the claims are allowable for the arguments set forth above. The Examiner disagrees for the reasons set forth above.

5. Claims 7, 8, 13, 14, 23, 24, 36, 37, 39-43, 46, 47, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi and O'Brien '218 in further view of Gruber (US 6326458).

This rejection is as set forth in the action dated 11/2/07. Applicant argues the claims are allowable for the arguments set forth above. The Examiner disagrees for the reasons set forth above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Toscano whose telephone number is (571)272-2451. The examiner can normally be reached on M-F 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMT

/Randy Gulakowski/
Supervisory Patent Examiner, Art Unit 1796